

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MATEO DE LA CRUZ CASARRUBIAS, :  
Plaintiff, :  
- against - :  
SURF AVE WINE & LIQUOR INC. and WEI :  
QIN XU, :  
Defendants. :  
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**ANN M. DONNELLY**, United States District Judge:

The plaintiff filed this action on July 7, 2020, alleging violations of the Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”) by his former employers. (ECF No. 1.) The defendants were served shortly after the action was filed. (ECF Nos. 4-5.) The defendants did not appear or answer the complaint, and the Clerk of Court filed an entry of default on August 28, 2020. (ECF No. 9.)

On November 20, 2020, the plaintiff filed a motion for default judgment against the defendants. (ECF No. 11.) I referred the motion to Magistrate Judge Roanne L. Mann on November 23, 2020.

Judge Mann issued a thorough Report and Recommendation on May 11, 2021, in which she recommends that the plaintiff’s motion be granted in substantial part and that the defendants be held jointly and severally liable for a judgment totaling \$41,817.50. (ECF No. 18 at 28.) No objections to the Report and Recommendation have been filed, and the time for doing so has passed.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quoting *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)) (internal quotation marks omitted).

I have reviewed Judge Mann’s well-reasoned and comprehensive Report and Recommendation and find no error. Accordingly, I adopt the Report and Recommendation in its entirety. The plaintiff’s motion for default judgment is granted, and the defendants are jointly and severally liable for a judgment totaling \$41,817.50, consisting of (1) \$10,230 in unpaid overtime wages and minimum wages, (2) \$4,104 in spread-of-hours premiums, (3) \$14,334 in liquidated damages, (4) \$10,000 in statutory damages, (5) \$2617.50 in attorneys’ fees and (6) \$532 in costs. The plaintiff is also awarded pre-judgment and post-judgment interest, to be calculated as set forth in Judge Mann’s Report and Recommendation. (ECF No. 18 at 28.) The Clerk of Court is respectfully directed to enter judgment accordingly and close this case.

**SO ORDERED.**

s/Ann M. Donnelly

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ANN M. DONNELLY  
United States District Judge

Dated: Brooklyn, New York  
June 2, 2021